

**SCOTT ERIK ASPHAUG, OSB #833674**

United States Attorney

District of Oregon

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Attorneys for Defendant

**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DISTRICT**

**IAN CLARK,**

Case No. 3:22-cv-00931

Plaintiff,

v.

**NOTICE OF REMOVAL OF CIVIL  
ACTION**

**UNITED STATES,**

Defendant.

1. Under 42 U.S.C. § 233(c), the United States is removing to this Court a civil action originally filed by Plaintiff Ian Clark, in Clackamas County Circuit Court Case No. 22CV10784.
2. Under the Federally Supported Health Centers Assistance Act, 42

U.S.C. § 233(a)–(n), the U.S. Department of Health and Human Services deemed Neighborhood Health Center (“NHC”), Coleman Bright, Lindsey Scott, and Darla Lundmark, to be employees of the Public Health Service at the time of the incident out of which Plaintiff’s suit arose under 42 U.S.C. § 233(a). *See* Declaration of Mary Christofferson, attached as Exhibit 1.

3. Under 42 U.S.C. § 233(c) and 28 C.F.R. § 15.4, the United States Attorney for the District of Oregon has certified that NHC, Coleman Bright, Lindsey Scott, and Darla Lundmark, were acting within the scope of their employment as employees of the Public Health Service at the time of the alleged incident out of which Plaintiff’s suit arose. *See* Certification Pursuant to 42 U.S.C. § 233(c), attached as Exhibit 2.

4. The United States has the statutory right to remove this action to federal court. *See* 42 U.S.C. § 233(c). “Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending **and the proceeding deemed a tort action brought against the United States[.]**” 42 U.S.C. § 233(c) (emphasis added). Plaintiff’s action has been removed properly to this Court under 42 U.S.C. § 233(c).

5. Under 42 U.S.C. § 233(a), the remedy against the united states provided by sections 1346(b) and 2672 of title 28 is exclusive of any other civil action. Under 28 U.S.C. § 1346(b), commonly referred to as the Federal Tort Claims Act, federal district courts are vested with exclusive jurisdiction.

6. Therefore, under 42 U.S.C. § 233(c), the United States is hereby substituted as the defendant in the action in place of NHC, Coleman Bright, Lindsey Scott, and Darla Lundmark. *See* Notice of Substitution of United States of America as Defendant, attached as Exhibit 3.

7. Accompanying this Notice of Removal of Civil Action is a copy of all process, pleadings, and orders in this action. *See* Exhibit 4.

8. A copy of this Notice of Removal of Civil Action is being served upon the Plaintiff and a copy shall be filed with the Court Clerk of Clackamas County, Oregon, as required by 28 U.S.C. § 1446(d).

DATED this 29<sup>th</sup> day of June, 2022.

SCOTT ERIK ASPHAUG  
United States Attorney  
District of Oregon

/s/ Michael Jeter  
MICHAEL JETER  
Assistant United States Attorney  
Attorneys for Defendants

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Notice of Removal of Civil Action** was placed in a postage prepaid envelope and deposited in the United States Mail according to established office procedure within the office of the United States Attorney at Portland, Oregon, on June 29, 2022, addressed to:

Ian Clark  
12399 SE Oatfield Rd,  
Milwaukie, OR 97222  
*Pro Se Plaintiff*

/s/ Nataly Nunez  
NATALY NUNEZ  
Legal Assistant